IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.550 OF 2006

IN
SUIT NO.363 OF 2006

Badruddin Nazir Ahmed Khan ...Plaintiff

V/s.

Mohammad Kasim Ali & Anr. ...Defendants

Mr.A.J. Almeida, Advocate, i/b. R.R. Mishra, for the Plaintiff.

None for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 10TH OCTOBER, 2006.

P.C. :

1. The Defendants are absent despite notice.

2. The Plaintiff is the owner of the suit property as is evident from the Deed of Conveyance dated 06.10.1988 (Exhibit "C").

3. The averments in the plaint and in particular paragraphs 5 to 8 thereof indicate that Defendant No.1 has trespassed upon the suit property in the last week of July, 2005 when the Plaintiff was absent from his office.

4. Immediately thereafter the Plaintiff took steps by filing a police complaint on 02.08.2005, addressing his advocate's notice and complaining to the BMC regarding the illegal construction built by the Defendants.

5. There is no affidavit-in-reply. There is nothing on record that militates against the Plaintiff's case.

6. In the circumstances, the Notice of Motion is made absolute in terms of prayer (a) except the portion bracketed in red.

7. The Receiver shall however appoint Defendant No.1 as his agent on the usual terms and conditions including as to royalty but without security. Till the Receiver takes possession, ad-interim order in terms of prayer (b).